(15)

G. R. S. 58]

Previous references.

File No. 53-11

1911-2

Serial Nos. 1-3

(Legislation)

Later references.

Legis 32-12 (1-6) D

" 7-19 (19, 29, 30)

(P-19)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-3

Part B for June 1912

SUBJECT.

Amendment of Rule 3 of Order XXXII of the C.P.C, 1911

Contents.

1. To the Registrar, Chief Court. No 3881 dated 5-6-12 Requests him to favour Govt with the opinion of the Chief Court on the proposal to amend Rule 3 of Order XXXII of the C.P.C, 1911.

2. From the same officer. No 4339/322 dated 10-6-12 States that the Judges of the Chief Court incline to the view that the issue of a notice to the minor is not productive of any real good and that when the form of

P.T.O

GPB—5,000—22-10-10

G.R.S. 11]

1911-12

GENERAL AND REVENUE SECRETARIAT

(Legis)

NOTES.

File No. 53-11

FILE HEADING.

Amendment of Rule 3 of the Order XXXII of the code of Civil Procedure, 1911.

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

P. T. O.

NOTES—First Sheet.

GPB—30,000—27-6-11

Legn. 53-11

2

SUBJECT NO. 17.

Amendment of Rule 3 of Order XXXII of the new Code of Civil Procedure.

Mr. M. Lakshminarasimhachar, Hassan taluk; Mr. C. Krishnamurti, Bangalore City Municipality and Mr. Venkatasamaiya, Nanjangud taluk.

Summary of discussion.—When a suit is instituted against a minor, a guardian is appointed to conduct the suit for such minor on an application of the plaintiff who supports his application by affidavit under para (3) Rule 3 of Order XXXII of the new Code of Civil Procedure (Regulation III of 1911); but by para (4) of the same rule and order it is directed that no order (appointing a guardian) shall be made on any application under the rule except upon notice to the minor and his guardian. This direction seems to be inconvenient when the minor is only an infant not capable of receiving the notice or understanding its contents, even when explained to him. The issue of such notice to the said minor defendant is to burden him with costs, but to no effect. It is therefore prayed that the rule may be amended to the effect that such notice to a minor may be issued when he is only above eight years of age at least and that no notice be issued to him otherwise.

Reply of Government.—The matter may be placed before the Rule Committee for consideration.

Sent with a draft to the Secretary to the Rule Committee Constituted under the Code of Civil Procedure

14/5/12 SW(11) 13/5/12

Para 4 of rule 3 referred to above was deliberately put in in the new Code to ensure that notice should reach one interested in the minor's welfare. The representation is based on the assumption that in every case the service of notice should be on the minor personally but this is not the object of the Section.* Cases in which there will be no one interested in the minor will be very rare indeed. On the other hand

* Service on the minor or on some one interested in him is what is intended

G. R. S. 12]
General and Revenue Secretariat.

Legis File No. 53 of 1911-12

Serial No.

There will be a good many cases in which the minor will be old enough to express an intelligent preference. The rule is intended to safeguard the interests of the minor and does not seem to require any change.

Reference is invited to pp. 1098-1100 of Amir Ali's C. P. C.

The Ch. Cl. may perhaps also be consulted or the matter may be placed before the Rule Committee for consideration. Vide reply of Govt.

16/5/12

The Ch. Cl's opinion may be invited.

(Why are not these subjects taken up sooner?)

Draft. 20/5/12

Reply in accordance herewith. 20/5

9/5/12

Put up draft 21/5/12

Yes 21/5/12

Office please explain the procedure in regard to such subjects.

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12.

General and Revenue Secretariat.

Legis File No. 53 of 1911-12

Serial No.

the reply of govt as finally appd

Labd to 1st Er

Submit after issue of draft to which it

3/5/12

June 1/6/12 Draft issued & file is submitted to Mr Counsellor as directed above

5/6/12

Seen

9/6/12

10/6

11/6/12

fwd 11/6

1 No 3581 dated 5/6/12 to the Registrar Chief Court. Requests him to favour Govt with the opinion of the Chief Court on the proposal.

2 No 4339/322 dated 10/6/12 from the Registrar Chief Court. States that the Judges of the Chief Court incline to the view that the issue of a notice to the minor is not productive of any real good and that when

NOTE—Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 53 of 1911-12

Serial No.

the form of amendment has been decided the matter would be referred to the Rule committee Submitted

(58) W(11)
13/6/12

The ~~matter may perhaps~~ question itself may perhaps be/ referred to the ~~Select Committee~~ Rule Committee

17/6/12

1st) The matter may be referred as it is to the Rules Committee & such amendment as they propose may be considered

17/6/12

23
18/6

18/6

NOTE—Contn. sheet.

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 5-3 of 1911-12

Serial No.	
	Submitted with a draft as ordered (5-8) SN(11) 19/6/12 20/6/12
	23/6/12
3	No J 3804 dated 27/6/11 to the Registrar Chief Court states that the matter may be referred to the Rules Committee and such amendments as they propose may be sent up to Govt. for consideration

B to Hon 21/7/12

NOTE—Contn. sheet.

GPB—20,000—20-1-12

G.R.S. 26] 46

Legis. File No. 53-11

Serial No. 1

Diary No. of letter replied to

No. J 3581/Legis

General and Revenue Secretariat

(Legis)

, the *19*

To

The Registrar of the
Chief Court of Uva,
Bandarawela

Date of issue 5-6-12

Signed by W. L. Wijayawardena

Sir

With the honour to
invite his attention to Libyan
No. 17 of the Representative
Assembly Proofs of 1911, relating
the amendment of Para 4
of Rule 3 of Order XXXII of
the Code of Civil Procedure
Regulation VII of 1911, and
to request that four may
be forwarded with the

over.

SUBJECT.

Legis 53 of 1911-12 J 3282 3
Serial 2

No: 4339/322

Chief Court of Mysore,

Bangalore, Dated 10th June 1912.

11th

From

The Registrar of the
Chief Court of Mysore.

To

The Secretary to the
Government of Mysore.
General and Revenue Departments.

S i r ,

With reference to your letter No: J 3581/Legis: dated the 5th instant in re the proposal for amending para 4 of Rule 3 of Order XXXII of the Code of Civil Procedure I am directed to state that the Judges of the Chief Court incline to the view that the issue of a notice to the minor is not productive of any real good. In suits tried on the Original Side by the Chartered High Courts of British India it is believed that no such notice is required. When the form of the amendment has been decided the matter will be referred to the Rule Committee.

I have the honor to be,
S i r ,
Your most obedient servant,

REGISTRAR.

H.C.C.

137

4

G.R.S. 26] 25/6

Legis File No. 53
Serial No. 3

Diary No. of letter replied to J 3282

No. J 3804.

General and Revenue Secretariat
(Legs)
, *the* 19

To
The Registrar, Chief Court
of Mysore, Bangalore

Date of issue 24.6.12.

Signed by Mr S. Hiriyannaiya

Sir

With reference to your
letter No G 339 dated 10th June
1912 ~~on~~ regarding the proposal for
amending para 4 of Rule 3
of Order XXXII of the Code
of Civil Procedure, 1911,
I am directed to state that
the matter may be referred
to the Rules Committee and

over.

SUBJECT.

5

such amendments as they propose may be sent up to Government for consideration

I am &c.

for Secretary to Govt.

20/6/12

Copied by

Examined by

GPB—10,000—28-2-11.